

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

EQUITY HOSPITALITY MANAGEMENT CO.

and

LOCAL 24, UNITE HERE, AFL-CIO

**Cases 07-CA-120059
07-CA-125218
07-CA-134769**

ORDER DENYING MOTION AND REMANDING¹

Upon charges and amended charges filed by Local 24, UNITE HERE, AFL-CIO, the Union, the General Counsel issued a consolidated amended complaint on November 26, 2014, against Equity Hospitality Management Co., the Respondent, alleging that it has violated Section 8(a)(3) and (1) of the Act.² The Respondent failed to file an answer.

On March 9, 2015, the General Counsel filed with the National Labor Relations Board a Motion to Transfer Case to the Board and for Default Judgment. Thereafter, on March 11, 2015, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent did not file a response.

The Motion for Default Judgment includes a certificate of service. That certificate certifies that the motion was filed on two parties of record: Amy Bachelder, who is listed in the case file as the legal representative for the Union, and Theodore R. Opperwall, who is

¹ The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

² The charges and complaint in this proceeding, and the amendments thereto, also alleged unlawful conduct by MCM Staffing Hospitality, LLC (MCM) and Pontchartrain Detroit Hotel LLC (Pontchartrain) as joint employers with the Respondent, doing business as Crowne Plaza Hotel Detroit Convention Center. On January 9, 2015, MCM and Pontchartrain executed an Informal Settlement Agreement remedying all of the allegations in the consolidated amended complaint, which was approved by the Regional Director for Region 7 on January 30, 2015. On that same date, the Region issued an order severing the allegations pertaining to the Respondent from the allegations pertaining to MCM and Pontchartrain.

listed in the case file as the legal representative for MCM Staffing Hospitality, LLC and Pontchartrain Detroit Hotel LLC. The certificate of service does not indicate that the Motion for Default Judgment was served on Equity Hospitality Management Co., the sole remaining respondent in this proceeding.

The Board's rules require that all motions be accompanied by an affidavit of service on the parties. NLRB Rules and Regulations § 102.24(a). Because the certificate of service does not show service of the motion on the Respondent, and in the absence of any evidence in the record of such service, the motion may not be granted.³

Accordingly, we deny the General Counsel's Motion for Default Judgment, without prejudice to the motion being refiled, with proof of service on Respondent Equity Hospitality Management Co. and all other parties to this proceeding.

IT IS ORDERED that this proceeding is remanded to the Regional Director for Region 7 for further appropriate action.

Dated, Washington, D.C., March 17, 2016

PHILIP A. MISCIMARRA,	MEMBER
KENT Y. HIROZAWA,	MEMBER
LAUREN McFERRAN,	MEMBER

³ Based on his evaluation of the record, Member Miscimarra notes there may also be deficiencies regarding service on Respondent Equity Hospitality Management Co. (Equity) of the original and amended complaints in this matter; it appears that Equity was not a participant in this litigation when Respondents MCM and Pontchartrain entered into a settlement resolving all disputed matters relating to them; and by the time the original and consolidated complaints were issued, Equity was no longer affiliated with MCM or Pontchartrain. In Member Miscimarra's view, to the extent the General Counsel addresses any service issues as to Respondent Equity that pertain to the Motion for Default Judgment, the General Counsel would be well-advised to address any similar service issues that may pertain to the complaint(s) or other documents relevant to the claims against Equity.